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SERVICE DATE - MAY 28, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34507]

The Burlington Northern and Santa Fe Railway Company—Temporary Trackage Rights
Exemption—Norfolk Southern Railway Company

Norfolk Southern Railway Company (NSR) has agreed to grant temporary overhead trackage rights to The Burlington Northern and Santa Fe Railway Company (BNSF) over NSR's Kansas City District between NSR milepost S241.9 at CA Junction, MO, and NSR milepost S250.6 at Maxwell, MO, a distance of approximately 8.7 miles.

The transaction is scheduled to be consummated on May 30, 2004, and the temporary trackage rights will expire on June 1, 2004. The purpose of the temporary rights is to facilitate maintenance work on BNSF lines.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980), and, in accordance with the decision of the United States Court of Appeals for the District of Columbia Circuit in United Transportation Union-General Committee of Adjustment (GO-386) v. Surface Transportation Board, 363 F.3d 465 (D.C. Cir. 2004), any employee affected by the

discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line R. Co.–Abandonment–Goshen, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34507, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Sarah W. Bailiff, The Burlington Northern and Santa Fe Railway Company, 2500 Lou Menk Drive, P.O. Box 961039, Fort Worth, TX 76161-0039.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: May 24, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary